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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,338	06/12/2001	Dennis Mendiola	YSAP.CHIKKA.PT5	2153

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EXAMINER	
DASS, HARISH T	

ART UNIT	PAPER NUMBER
3628	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/878,338	MENDIOLA ET AL.	
	Examiner	Art Unit	
	Harish T. Dass	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has added "an only Sender field" and "an only Recipient field" in every independent claim (e.g. 1, 8, 15, 22, 27 and 30). The original specification does not include any definition for "an only Sender field" and "an only Recipient filed".

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland et al (hereinafter Friedland – US 6,449,601) in view of Kivimaki (WO 00/22906) and Witek et al (US 6,253,188).

Re. Claims 1 and 8, Friedland discloses an auction method, system, and requiring that a prospective buyer *or* seller register with the trading and auction *system* before being able to place trading instructions (submit bids), including requiring that said prospective buyer *or* seller provide a phone (Figure 5 # 522) belonging to the prospective buyer *or* seller [Friedland – see entire document particularly, Abstract; Figures 1, 4-11; Abstract; col. 1 lines 20-25; col. 2 line 43 - col. 3 line 22; col. 10 lines 13-61; col. 5 lines 6-14];

Assigning a password to said prospective buyer *or* seller [Fig. 5 # 510; col. 10 lines 35-36];

Communicating said password to said prospective buyer *or* seller and receiving a confirmation of said password from said prospective buyer *or* seller, wherein at least one of said steps of communicating said password and receiving a confirmation of said password are performed using said telephone device's messaging capability [Figure 4; col. 3 lines 52-67; col. 5 lines 6-14; col. 10 lines 13-61 – see Internet-based web page, by mail, by telephone, or by some other communications means];

Activating said prospective buyer *or* seller's account *or* trading instruction if said password is correct [col. 3 lines 10-17; col. 10 lines 26-40];

Assigning a unique identification number to each product *or* service for sale *or* auction at said trading and auction *system [Figures 9-10; col. 14 line 44 to col. 15 line 36 – see product name and lot number]*;

Sending messages to a buyer's telephone device concerning offers *or* bids made by that buyer in relation to a product *or* service, with the unique identification number of the product *or* service included in an only sender field of each message protocol

messages to the buyer [Figures 10-11; col. 3 lines 22-30; col. 6 lines 14-52; col. 9 line 65 to col. 10 line 12; col. 14 lines 51-52, col. 14 line 59 to col. 15 line 36 – see lower level protocol header];

Receiving messages concerning a buyer's trading instructions on a product *or* service from that buyer's telephone device, determining the product *or* service by extracting and recognizing the unique identification number of the product *or* service from an only `Recipient` field of received message protocol messages from the buyer, identifying the buyer by extracting and recognizing the unique identifier of the telephone device (device) from the only sender field of each message from the buyer [Figures 10-11; col. 3 lines 22-30; col. 6 lines 14-52; col. 9 line 65 to col. 10 line 12; col. 14 lines 51-52, col. 14 line 59 to col. 15 line 36].

Re. Claim 1, Friedland does not explicitly disclose unique identifier of a SMS messaging-capable wireless device, wireless communication and parsing a text body of each message to determine the buyer's trading instructions for that product *or* service, SMS, and short message protocol.

Re. Claim 8, Friedland does not explicitly disclose unique identifier of a SMS messaging-capable wireless device, wireless communication and, SMS, and short message protocol, and concatenating an access identification number with a numeric address pertaining to and recognized by the system for registration purposes, placing said concatenated number in an only 'Sender' field of a SMS message, and sending the password in the SMS message to said buyer or seller'.

However, wireless device (cellular phone, radio phone, car phone, pager, wireless internet connections, etc), interactive voice response (using DTMF) are well known which are portable and enables people to communicate, access interactive system and obtain (listen) voice messages even they are away from stationary communication system (telephone, cable, etc.)

Kivimaki explicitly discloses, SMSC, electronic auctions using mobile phone or wireless internet and unique identifier of a messaging-capable wireless device and SQL server (SQL database engine is well known which includes parsing a text body and extracting/identifying different fields (each message to from the buyer determine the buyer's trading instructions for that product *or* service), [Abstract; Figures 1-4; page 4 lines 10-35] to enable buyer/seller to participate in auction using wireless device without continuously monitoring the auction state/status, and SMS [abstract], short message protocol [page 7 lines 30 (communication standard such as GSM) – note: communication protocols are set of rules or standard for connecting devices for exchange of information as defined in Microsoft Computer Dictionary, 2002] to enable the system to exchange messages with commonly used standardized protocol such as GSM, etc. instead of customize system which may have negative market impact. Kivimaki, further, discloses concatenating an access identification number with a numeric address pertaining to and recognized by the system for registration purposes, placing said concatenated number in an only 'Sender' field of a SMS message, and sending the password in the SMS message to said buyer or seller' [figure 5; page 10 lines 4-9 (information for authenticating the buyer), lines 15-25 (maximum length of 160

characters is concatenation of fields which can include identification number, etc.); page 8 lines 20-31; page 9 lines 1-7] which is important for binding the buyer with the acceptance of offer to purchase a product. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Friedland and include transmitting and receiving short messages (e.g. 160 characters) to and from registered buyer using SMS wireless communication system, as discloses by Kivimaki, to enable people to do business while they are on road. Alternatively, Witek discloses Standard Query Language (SQL) and converting the ads operative terms into a set of standard field values [Abstract; Figures 2-3, 8, 11; col. 1 lines 24-39; col. 6 line 46 to col. 7 line 42] to automate record generation and establishing parsing table.

Re. Claim 2 Kivimaki further discloses requiring that a buyer authenticate their identity with the trading and auction *system* when placing their first trading instruction in relation to a product *or* service by an exchange of messages between the trading and auction *system*, in which at least one of said messages are sent *or* received using said wireless device's messaging capability [Abstract; Figures 1-4; col. 4 lines 10-35; col. 7 line 27 to col. 8 line 9].

Re. Claim 3 Friedland wherein said step of communicating said password to said prospective buyer *or* seller is performed over a computer network, and said step of receiving a confirmation of said password from said prospective buyer *or* seller is

performed using said wireless device's messaging capability [Figures 5-6; col. 2 line 65 to col. 3 line 22; col. 5 lines 6-14; col. 9 lines 1-63; col. 10 lines 13-61 – see Internet-based web page, by mail, by telephone, or by some other communications means (may include wireless devices)].

Re. Claim 4 Friedland wherein said step of communicating said password to said prospective buyer *or* seller is performed using said wireless device's messaging capability, and said step of receiving a confirmation of said password from said prospective buyer *or* seller is performed over a computer network [Figures 5-6; col. 2 line 65 to col. 3 line 22; col. 5 lines 6-14; col. 9 lines 1-63; col. 10 lines 13-61 – see Internet-based web page, by mail, by telephone, or by some other communications means (may include wireless devices such as cellular phone or wireless internet)].

Re. Claims 5-7 and 12-14, Kivimaki further discloses wherein said wireless device is a GSM device with SMS capability, said wireless device being serviced by a GSM network including a SMSC server to control and manage SMS to and from said wireless device, wherein said trading and auction *system* is in direct communication with said SMSC server, wherein said step of sending messages to a buyer's wireless device includes the step concatenating an access identification number with the unique identification number of the product *or* service and placing said concatenated number in the sender field of each message, said SMSC server using the access identification number to identify SMS from wireless devices destined for said trading and auction

system and to forward such SMS directly to the trading and auction *system,* wherein said trading and auction *system* is connected to said SMSC server via a computer network [Abstract; Figures 1-2; col. 4 line 5 to col. 5 line 12; col. 6 line 35 to col. 8 line 9].

Re. Claim 9, claim 9 is substantially similar to claim 2, therefore claim 9 is rejected with same rational as claim 2.

Re. Claim 10, claim 10 is substantially similar to claim 3, therefore claim 10 is rejected with same rational as claim 3.

Re. Claim 11, claim 11 is substantially similar to claim 4, therefore claim 11 is rejected with same rational as claim 4.

Re. Claim 15 Friedland discloses an auction method, system, and assigning a unique identification number to each product *or* service for sale *or* auction at said trading and auction *system [Figures 9-10; col. 14 line 44 to col. 15 line 36 – see product name and lot number]*;

Sending messages to a buyer's telephone device concerning offers *or* bids made by that buyer in relation to a product *or* service, with the unique identification number of the product *or* service included in an only sender field of each message, protocol messages to the buyer [Figures 10-11; col. 3 lines 22-30; col. 6 lines 14-52; col. 9 line

65 to col. 10 line 12; col. 14 lines 51-52, col. 14 line 59 to col. 15 line 36 – see lower level protocol header];

Receiving messages concerning a buyer's trading instructions on a product *or* service from that buyer's wireless device, determining the product *or* service by extracting and recognizing the unique identification number of the product *or* service from an only recipient field of received message protocol messages from the buyer, identifying the buyer by extracting and recognizing the unique identifier of the wireless device from the sender field of each message and parsing a text body of each message to determine the buyer's trading instructions for that product *or* service [Figures 10-11; col. 3 lines 22-30; col. 6 lines 14-52; col. 9 line 65 to col. 10 line 12; col. 14 lines 51-52, col. 14 line 59 to col. 15 line 36].

Friedland does not explicitly disclose wireless communication. However, Kivimaki explicitly discloses electronic auctions using mobile phone or wireless internet [Abstract; Figures 1-4; col. 4 lines 10-35] to enable buyer/seller to participate in auction without continuously monitoring the auction state/status and SMS, and short message protocol. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Friedland and include wireless communication system, as discloses by Kivimaki, to enable people to do business while they are on road.

Re. Claim 16, claim 16 is substantially similar to claim 2, therefore claim 16 is rejected with same rational as claim 2.

Re. Claim 17, claim 17 is substantially similar to claim 3, therefore claim 17 is rejected with same rational as claim 3.

Re. Claim 18, claim 18 is substantially similar to claim 4, therefore claim 18 is rejected with same rational as claim 4.

Re. Claims 19-21, claims 19-21 are substantially similar to claims 5-7, therefore claims 19-21 are rejected with same rational as claims 5-7.

Re. Claims 22, 27 and 30, claims 22, 27 and 30 are substantially similar to claims 1 and 8 (see above), therefore claims 22, 30 and 27 are rejected with same rational as claims 1 and 8.

Re. Claims 23 and 31, claims 23 and 31 are substantially similar to claim 2, therefore claims 23 and 31 are rejected with same rational as claim 2.

Re. Claims 24-26, 28-29 and 32-34, claims 24-26, 28-29 and 32-34 are substantially similar to claims 5-7, therefore claims 24-26, 28-29 and 32-34 are rejected with same rational as claims 5-7.

Response to Arguments

3. Applicant's arguments filed 03/06/2006 have been fully considered but they are not persuasive, the arguments with respect to pending claims are moot in view of the above rejection.

Conclusion

4. Applicant's amendment necessitated a new rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 CFR ' 1.111 (c) to consider the references fully when responding to this action.

ALLEN T. CHENG, July 28, 2000, "Shopping by Cellphone -Internet and mobile communications companies think 'm-commerce' has a nice ring to it" discloses Shopping by Cellphone in Japan and South Korea, and launched in Hong Kong a

SmartTone's WAP at cost of $6.40 a month (prior implementation date than the current application priority), and by the end of the year, more than 200 million Asians will be carrying mobile phones. With users expanding by more than 30% a year, the region is not only the largest cellphone market in the world, it is also the fastest-growing. Confronted with these numbers, entrepreneurs struggling to develop a winning Internet strategy in underdeveloped online markets must be asking themselves this question: Am I in the wrong business? (www.pathfinder.com/asiaweek/technology/2000/0728/tech.main.html).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harish T. Dass whose telephone number is 571-272-6793. The examiner can normally be reached on 8:00 AM to 4:50 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 571-272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Harish T Dass
Examiner
Art Unit 3628

5/22/06

HYUNG SOUGH
SUPERVISORY PATENT EXAMINER
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